

### **REMARKS**

The claims appearing in this Application were 1 through 8. Claims 1 and 2 have been cancelled without prejudice and new independent claim 9 has been added. Claims 3, 5 and 8 have been amended to be dependent from newly added independent claim 9. Therefore, the claims remaining under consideration are 3 through 9. Applicant respectfully requests consideration of newly added independent claim 9 and reconsideration of previously rejected claims 3 through 8.

Claims 4 and 8 were rejected under the 35 U.S.C. § 112 as being indefinite. Claim 4 has been amended to strike the term "dome-like" therefrom, and Applicant respectfully submits such overcomes the rejection for indefiniteness of claim 4.

Claim 8 has been amended to properly recite the means for adjusting the height and thus it is respectfully submitted that the indefiniteness of claim 8 has been overcome by this Amendment. Applicant therefore respectfully requests withdrawal of the objections of claims 4 and 8 as being indefinite.

Claims 1 and 2 were rejected under 35 U.S.C. § 102(b) as being anticipated by the Patent of Friedman 5,224,914. Applicant respectfully traverses this rejection. Claims 1 and 2 have been cancelled and a new independent claim 9 has been added and it is respectfully submitted that the structure as defined in newly submitted claim 9 is not anticipated by the Patent to Friedman.

Applicant's invention is directed to a free-standing portable exercise device which is used by the user to execute push-ups while the user is disposed in an inclined but standing position and for simultaneously exercising the abdominal muscles of the user. Applicant's free-standing portable exercise device has a base which rests upon the floor and includes two elevated substantially stationary spaced-apart handles which are supported by a structure above the base. The device includes a spring-biased pad supported by the structure and is positioned between the stationary handles in such a manner that the pad is contacted by the abdomen of the user during the execution of the push-up exercises. The pad is spring-loaded so that while the user is performing the push-ups, the pad moves forwardly and downwardly relative to the stationary handles when pressed upon by the abdomen of the exercising user.

Applicant respectfully submits that Friedman discloses a portable abdominal exercising device, not an exercise device for executing push-ups by the user when the user is in an inclined standing position. The Friedman device discloses a pair of torsion springs with

each spring having a vertical leg and an horizontal leg with the vertical legs being connected to a transverse bar located approximately at the shoulder level of an exercising user. The horizontal legs are connected to a horizontal board designed to rest across the upper legs of the user. The transverse bar is constructed of plastic or sheet material and is configured to have a recessed portion 30 to enable the user to lean forward to press the transverse bar toward the horizontal bar without interference with the upper body or the torso of the user. That is, the user's abdomen does not contact the bar. The transverse bar is provided with a pair of handles 36. The handles along with the bar move toward the horizontal bar as the user performs the abdominal exercise. The handles are not stationary. *See Col. 4, lines 1 through 17 of Friedman.*

Applicant respectfully submits that Friedman does not disclose an exercise device for executing push-ups while the user is in an inclined standing position nor does it disclose substantially stationary spaced-apart handles nor does it disclose a spring-biased pad which is engaged by the abdomen of the exercising user and which moves in an angular forward downward direction while the base, handles and supporting structure remain substantially stationary and support the exercising user in the inclined standing position. Applicant therefore respectfully submits that his structure as defined by newly submitted independent claim 9 is not only not anticipated by Friedman, but in fact is patentably distinguishable therefrom. Therefore, Applicant respectfully requests consideration of newly submitted independent claim 9 and the issuance of a Notice of Allowance with respect thereto.

Claims 1 and 8 were rejected under 35 U.S.C. § 102(b) as being anticipated by Mullen. As above pointed out, claim 1 has been cancelled and newly submitted independent claim 9 has been substituted. The discussion of claim 9 above set forth is incorporated herein by reference. The structure disclosed by the Patent to Mullen is an upper metallic box 38 supported by a plurality of springs 28, 29, 30 upon a lower metal plate 2 which includes extension arms 4 and 6 which support metal handbars 8 and 10 for use in performing push-up exercises. The user clasps the handbars 8 and 10 with his hands and assumes the push-up position with his chest above the padding 39 on the metallic box 38. The user then performs traditional push-ups. As the user's chest, not his abdomen, moves downward, it comes into contact with the padding 39 forcing the box 38 to move downward and compressing the springs 28, 29 and 30 thus generating a resisting upward force on the box 38. This force assists the user in doing the push-ups by reducing the amount of weight that the user's

muscles must lift. See Col. 7, lines 1 through 12. By consideration of the foregoing, Applicant respectfully submits that Mullen discloses a structure in which the upper metal box 38 is capable of only perpendicular movement as dictated by the spring guides 32, 33, 34, 37, etc., and therefore Mullen does not teach or suggest a free-standing portable exercise device for executing push-ups in an inclined standing position and for simultaneously exercising the abdominal muscles of the user, the device having a base, two elevated substantially stationary spaced-apart handles supported by a structure above said base, and a spring-biased pad supported by said structure and being positioned between said handles to be contacted by the abdomen of an exercising user, said pad being spring-loaded upwards and moving in an angular forward-downward direction when pressed upon by the abdomen of an exercising user... wherein said pad is provided with an outer major face and is pivotally supported relative to said structure so that when contacted by the body of a user executing push-ups in an inclined standing position the outer major face of said pad assumes a plane substantially parallel to and in contact with the abdominal area of the user.

Applicant therefore respectfully submits that claims 9 and 8 are not anticipated by the Patent to Mullen and in fact, define subject matter which is patentable over the disclosure of Mullen. Therefore, Applicant respectfully requests consideration of claim 9 and reconsideration of claim 8 and the issuance of a Notice of Allowance with respect thereto.

Claims 3 and 4 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Friedman and as applied to claim 1. As above indicated, claim 1 has been cancelled and newly submitted independent claim 9 has been substituted therefor. Applicant hereby adopts the discussion set forth above with regard to claim 9 as above set forth and respectfully submits that claim 9 defines subject matter which is patentable over the Patent to Friedman. Claims 3 and 4 merely add additional limitations to allowable claim 9 and as a result Applicant respectfully submits that claims 3 and 4, like claim 9, are also patentable. Applicant therefore respectfully requests reconsideration of claims 3 and 4 and the issuance of a Notice of Allowance with respect thereto.

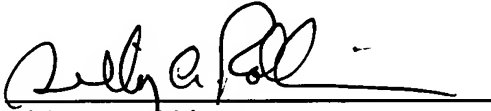
Claims 5 through 7 were rejected as being unpatentable over Mullen and further in view of Anderson et al under 35 U.S.C. § 103(a). Again, Applicant respectfully adopts the discussion set forth above with regard to newly submitted independent claim 9 with respect to claims 5 through 7 and respectfully submits that claims 5 through 7 merely add additional limitations to allowable claim 9 and therefore also define patentable subject matter. It should

also be noted that the structure set forth in Anderson et al. is directed to a hip-mounted springable frame that compresses between the chest and thighs of a worker when he stoops over as to help the worker to stand erect again and ease back strain and is in fact similar to the structure as disclosed in Friedman. Applicant therefore respectfully requests reconsideration of claims 5 through 7 and the issuance of a Notice of Allowance with respect thereto.

Applicant hereby respectfully submits that in view of the foregoing amendments and these remarks, claims 3 through 9 as presently under consideration define subject matter which is patentably distinct over the references Friedman, Mullen and Anderson et al., taken separately or together, and respectfully requests consideration of newly submitted independent claim 9 and reconsideration of claims 3 through 7 which are now amended to be dependent directly or indirectly from claim 9 and the issuance of a Notice of Allowance with respect thereto.

Respectfully submitted,

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